

2

1 J. RUSSELL CUNNINGHAM, State Bar #130578  
ERIC R. GASSMAN, State Bar #260693  
2 DESMOND, NOLAN, LIVAICH & CUNNINGHAM  
1830 15<sup>th</sup> Street  
3 Sacramento, California 95811  
Telephone: (916) 443-2051  
4 Facsimile: (916) 443-2651

5 Attorneys for Susan K. Smith  
Chapter 7 Trustee  
6

7  
8 UNITED STATES BANKRUPTCY COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
10 SACRAMENTO DIVISION

11 In re:

12  
13 JAMES BAGGARLY and  
KATHRYN BAGGARLY,

14 Debtors.  
15  
16  
17

Case No. 09-42342-A-7  
Chapter 7

DCN: DNL-3

Date: March 1, 2010  
Time: 9:00 a.m.  
Place: Courtroom 28, Dept A  
501 I Street, 7<sup>th</sup> floor  
Sacramento, CA 95814

18  
19 **TRUSTEE'S MOTION FOR AUTHORITY TO ABANDON REAL PROPERTY:**  
**18362 RING NECKED COURT, WOODLAND, CA**

20 Chapter 7 Trustee, SUSAN K. SMITH ("Trustee"), seeks an order of the court that real  
21 property commonly referred to as 18362 Ring Necked Court, Woodland, CA ("18362 Ring Necked  
22 Court") is abandoned as being burdensome and of inconsequential value and benefit to the estate  
23 pursuant to 11 U.S.C. §554(a). In support of her motion, Trustee respectfully represents:

24 1. On October 14, 2009 the above-captioned bankruptcy case was commenced by the  
25 filing of a voluntary Chapter 7 petition on behalf of the debtors.

26 2. Trustee is the duly appointed trustee for the debtors' estate.

27 3. Among the assets of the debtors' estate is the debtors' residence, 18362 Ring Necked  
28 Court.

1           4.     18362 Ring Necked Court is encumbered by a deed of trust in favor of Wells Fargo  
2 Bank (the "Lender") to secure a Note in the principal sum of \$637,900.00.

3           5.     Lender subsequently assigned the Note and Deed of Trust to US Bank National  
4 Association ("USBNA")

5           6.     On December 16, 2009, USBNA filed a Motion For Relief From Stay (PD-2), seeking  
6 leave to enforce all of its rights under the Note and Deed of Trust, including its ability to foreclose  
7 on 18362 Ring Necked Court.

8           7.     According to the debtors' schedules, the fair market value of 18362 Ring Necked  
9 Court is \$405,000.00.

10          8.     Pursuant to the moving papers filed by USBNA, equity in 18362 Ring Necked Court  
11 is as follows:

Fair Market Value:	\$405,000.00
Less:	
USBNA Trust Deed:	\$661,507.73
Lender's 2 <sup>nd</sup> Deed of Trust:	\$201,163.00
Cost of Sale:	\$ 32,400.00
Equity:	-\$490,070.73

15          9.     On February 2, 2010, the Court entered an order granting USBNA's motion for relief  
16 from stay.

17          10.    In light of the negative equity in 18362 Ring Necked Court, Trustee believes that  
18 continued administration of this asset is burdensome and of inconsequential value to the estate.

19                WHEREFORE, Trustee requests that this court approve Trustee's abandonment of 18362  
20 Ring Necked Court pursuant to 11 U.S.C. §554(a) and for such other and further relief as the Court  
21 deems proper.

22  
23 DATED: February 4, 2010

**DESMOND, NOLAN, LIVAICH & CUNNINGHAM**

24  
25 By: 

26  
27 **J. RUSSELL CUNNINGHAM**  
Attorneys for Susan K. Smith  
Chapter 7  
28